REMARKS

Claims 1 through 3 are currently pending in the application.

This amendment is in response to the Office Action of September 11, 2003.

Preliminary Amendment

Applicant notes the filing of a Preliminary Amendment on May 16, 2002, which filing was not acknowledged in the outstanding Office Action. Should the Preliminary Amendment have failed to have been entered in the Office file, Applicant will provide a true copy to the Examiner.

35 U.S.C. § 101 Double Patenting Rejection

Claim 1 is rejected under 35 U.S.C. § 101 as claiming the same invention as that of claim 1 of prior U.S. Patent 6,373,011 (hereinafter referred to as the `011 patent). Applicant respectfully traverses this rejection, as hereinafter set forth.

Applicant asserts that a reliable test for statutory double patenting under 35 U.S.C. § 101 is whether a claim in the application can be literally infringed without literally infringing a corresponding claim in the patent. Is there an embodiment of the invention that falls within the scope of one claim, but not the other? If there is such an embodiment, then identical subject matter is not defined by both claims and statutory double patenting under 35 U.S.C. § 101 does not exist. *In re Vogel,* 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

Applicant asserts that no statutory double patenting under 35 U.S.C. § 101 exists between the embodiment of the invention of presently amended independent claim 1 of the present application and the embodiment of the invention of corresponding claim 1 of the `011 patent because different embodiments of the inventions are being claimed. For instance, the embodiment of the invention set forth in presently amended independent claim 1 of the present application contains an element of the invention calling for "automatically reading the unique identification code of each integrated circuit device of the plurality of integrated circuit devices when each integrated circuit device of the plurality of integrated circuit devices forms a portion of a wafer" whereas the embodiment of the invention set forth in corresponding independent

claim 1 of the '011 patent does not. Accordingly, no statutory double patenting under 35 U.S.C. § 101 exists between the embodiment of the invention set forth in presently amended independent claim 1 of the presently application and corresponding independent claim 1 of the '011 patent. Therefore, presently amended independent claim 1 of the presently application is allowable.

Double Patenting Rejection Based on U.S. Patent 6,373,011

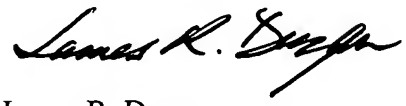
Claims 1 through 3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent 6,373,011. In order to avoid further expenses and time delay, Applicant elects to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejection in compliance with 37 C.F.R. §1.321 (b) and (c). Applicant's filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejection. Attached is the terminal disclaimer and accompanying fee.

After carefully considering the cited prior art, the rejections, and the Examiner's comments, Applicant has amended the claimed invention to clearly distinguish over the cited prior art.

Applicant submits that claims 1 through 3 are clearly allowable.

Applicant requests the allowance of claims 1 through 3 and the case passed for issue.

Respectfully submitted,



James R. Duzan
Registration No. 28,393
Attorney for Applicant
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: December 5, 2003
JRD/sls:djp
Document in ProLaw